

## Message Text

CONFIDENTIAL

PAGE 01 STATE 153862

60

ORIGIN L-03

INFO OCT-01 NEA-10 ADP-00 PM-07 CIAE-00 INR-10 NSAE-00

RSC-01 SSO-00 NSC-10 NSCE-00 INRE-00 SNM-02 H-03

OMB-01 /048 R

DRAFTED BY L/NE/:ATBROWN:BDF

8/3/73 EXT 29501

APPROVED BY NEA:ALATHERTON

NEA/ARP:FMDICKMAN

DOD/OC - MR. HERO

L/PM - MR. MICHEL

PM/ISO - MR. HAGERTY

NAVY/JAG - CAPT. FRUTHERMAN

----- 004255

O R 032319Z AUG 73

FM SECSTATE WASHDC

TO AMEMBASSY MANAMA IMMEDIATE

INFO AMEMBASSY KUWAIT

SECDEF

CNO

USCINCEUR

CINCUSNAVEUR

COMIDEASTFOR

JAG NAVY WASHDC

C O N F I D E N T I A L STATE 153862

E.O. 11652: GDS

TAGS: MARR, PFOR, BA

SUBJ: CRIMINAL JURISDICTION OVER U.S. NAVAL PERSONNEL

REF: (A) MANAMA 410; (B) KUWAIT 2543; (C) STATE 135459

1. DEPT AGREES THAT CHANGES SHOULD BE MADE IN OUR PRACTICE  
UNDER ARTICLE 11 BECAUSE OF THE POLITICAL SIGNIFICANCE OF  
THE ISSUE ARISING FROM THE APPARENT MISUNDERSTANDINGS OF  
THE GOB CONCERNING THE MEANING AND EFFECT OF ARTICLE 11  
WHEN THE STATIONING AGREEMENT WAS EXECUTED. THE DEPT DOES  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 153862

NOT, HOWEVER, WISH TO RENEGOTIATE ARTICLE 11 AT THIS TIME.

2. THE FOLLOWING APPROACH IS SUGGESTED. ESTABLISH INFORMAL STANDARDS ALONG FOLLOWING LINES: THE NAVY WILL, AT THE REQUEST OF THE GOB, WAIVE JURISDICTION IN CASES CERTIFIED TO BE OF PARTICULAR IMPORTANCE TO GOB, WHICH INVOLVE DEATH, PERMANENT DISABILITY, RAPE OR TRAFFICKING IN DRUGS, IN WHICH THE VICTIM IS NOT A MEMBER OF THE US FORCE, AND WHICH (IN DEATH OR DISABILITY CASES) DO NOT ARISE FROM PERFORMANCE OF DUTY. FYI. US FORCE INCLUDES DEPENDENTS AND MEMBERS OF THE CIVILIAN COMPONENT. END FYI. REQUEST BY GOB SHOULD BE TIMELY (WITHIN 14 DAYS) AND EVEN WITHIN RANGE OF CASES INDICATED ABOVE, CASE SHOULD BE CERTIFIED TO BE OF PARTICULAR IMPORTANCE TO GOB. IN CASES INVOLVING POLITICALLY SENSITIVE CRIMES, WE WOULD OF COURSE RECOGNIZE GOB INTERESTS AND WOULD ADOPT A LIBERAL WAIVER POLICY IN KEEPING WITH INTENT OF LAST SENTENCE OF PARA. 11 OF THE STATIONING AGREEMENT. DURING PERIODS OF MARTIAL LAW OR DURING TIMES OF GOB DECLARED NATIONAL EMERGENCY, THE TWO GOVERNMENTS SHALL CONSULT ON THE APPLICABILITY OF THESE UNDERSTANDINGS IN THE CONTEXT OF PARA. 11 OF THE STATIONING AGREEMENT.

3. BECAUSE DEPENDENTS AND MEMBERS OF CIVILIAN COMPONENT ARE NOT SUBJECT TO TRIAL BY MILITARY COURTS-MARTIAL, GOB SHOULD BE ADVISED THAT TIMELY (14 DAYS) GOB REQUESTS FOR WAIVER WILL BE GRANTED IN CASES (EXCEPT IN CASES OF PARTICULAR IMPORTANCE TO THE USG) INVOLVING THESE PERSONNEL WITHOUT THE QUALIFICATION THAT THE CASE BE OF PARTICULAR IMPORTANCE TO THE GOB. THE STATUS OF THE VICTIM AS A MEMBER OF THE US FORCES WILL NOT PRECLUDE WAIVER.

4. WHEN THE NAVY DOES DISPOSE OF CASES INVOLVING OFFENSES UNDER BAHRAIN LAW, THE NAVY WILL REPORT THEIR ACTIONS TO GOB. DETAILS OF THE REPORTING SHOULD BE WORKED OUT BETWEEN NAVY AND APPROPRIATE GOB OFFICIALS.

5. EMB SHOULD INDICATE TO GOB WILLINGNESS OF NAVY TO ABIDE BY THESE STANDARDS IN CONTEXT OF REQUIREMENTS DESCRIBED IN PARA 7 BELOW. HOWEVER, ANY APPROACH SHOULD BE INFORMAL, WITH NO EXCHANGE OF NOTES. THE STANDARDS MAY  
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 153862

BE CONVEYED IN A UNILATERAL LETTER FROM EMB TO GOB. DEPT WILL FURNISH SUCH LETTER IF EMB WISHES.

6. THE STANDARDS ARE FOR FUTURE CASES AND SHOULD NOT BE APPLIED TO THE MASTERS CASE.

7. CONGRESSIONAL INTEREST IN EXERCISE OF JURISDICTION BY FOREIGN COURTS OVER MILITARY PERSONNEL, REFLECTED IN

SENATE RESOLUTION GIVING ADVICE AND CONSENT TO NATO SOFA, REQUIRES CERTAIN MINIMUM FAIR TRIAL GUARANTEES AND PRESENCE OF TRIAL OBSERVER. FYI. EMB IS REQUESTED TO REPORT WHETHER GOB CRIMINAL JUSTICE PROCEDURES AND PRACTICES CONTAIN FAIR TRIAL GUARANTEES SIMILAR TO US/UK SYSTEM OF JUSTICE. PRESENT AGREEMENT WITH GOB DOES NOT CONTAIN A LIST OF FAIR TRIAL GUARANTEES USUALLY FOUND IN SOFA AGREEMENTS BECAUSE EXERCISE OF JURISDICTION BY BAHRAIN NOT ANTICIPATED. SEE ARTICLE VII NATO SOFA (T.I.A.S. NO. 2846) FOR LIST OF TRIAL GUARANTEES. COMIDEASTFOR HAS BEEN TASKED TO PRODUCE COUNTRY LAW STUDY REQUIRED BY SERVICE REGULATIONS AND CAN BE OF ASSISTANCE IN THIS MATTER. END FYI.

8. WE ALSO BELIEVE CONSULTATIONS BETWEEN NAVY AND GOB OFFICIALS ON ALL JURISDICTIONAL MATTERS OF MUTUAL INTEREST, INCLUDING DISCUSSION OF US MILITARY JUSTICE PROCEDURES, SHOULD BE DONE ON A CONTINUING BASIS TO AVOID AROUSING ANY QUESTION WITHIN THE GOB THAT US IS EVADING SPIRIT OF ARTICLE 11.

9. DOD CONCURS. ROGERS

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 03 AUG 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1973STATE153862  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** ATBROWN:BDF  
**Enclosure:** n/a  
**Executive Order:** GS ATHERTON  
**Errors:** N/A  
**Film Number:** n/a  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1973/newtext/t19730858/aaaabqif.tel  
**Line Count:** 137  
**Locator:** TEXT ON-LINE  
**Office:** ORIGIN L  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 73 (A) MANAMA 410; (B) KUWAIT 2543; (C) STATE 135459  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 17 DEC 2001  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <17-Dec-2001 by kelleyw0>; APPROVED <27 FEB 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CRIMINAL JURISDICTION OVER U.S. NAVAL PERSONNEL  
**TAGS:** MARR, PFOR, BA  
**To:** MANAMA  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005